



**PATENT APPLICATION
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Serial No. 09/509,853 Examiner: R. Stormer
Inventor: DeCagny et al. Group Art Unit: 3617
Filing Date: June 8, 2000
Title: Wheel Balancing Device and Wheel Equipped with such a Device

**PETITION TO WITHDRAW A HOLDING OF ABANDONMENT
PURSUANT TO 37 CFR 1.181**

Mail Stop DAC
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

Applicant respectfully request that the holding of abandonment be withdrawn from the above-identified application. The Applicant contends that the above-identified application is not in fact abandoned, based on the controlling dates. The holding of abandonment is an unfair burden on the client and the Examiner should reconsider the Notice of Abandonment. A statement of facts is as follows.

Having been removed from appeal, the Examiner mailed the third Office Action for the above-identified application, dated July 16, 2002, with a period of reply set to expire on October 16, 2002, with available extensions of time. Applicant timely filed a response on October 15, 2002.

Examiner Stormer then sent an Office Action entitled Response to the Amendment, dated November 5, 2002 (copy enclosed as Exhibit A), stating that the response of October 15, 2002, was not fully responsive. The period of reply was set to

expire in thirty days or 1 month from the mailing date, whichever is longer. The expiration date was December 5, 2002. Applicant filed a response with a 1.8 Certificate of Mailing on November 15, 2002 (copy enclosed as Exhibit B). The postcard receipt was stamped by the USPTO on November 22, 2003 (copy enclosed as Exhibit C). Rather than proceed with examination of the application, which should have occurred based on the dates of fact, the Examiner mailed a Notice of Abandonment, dated June 17, 2003, indicating that no response was received (copy enclosed as Exhibit D). The controlling dates are as follows.

Office Action Mailing Date	November 5, 2002
Deadline	December 5, 2002
Actual Response Date	November 15, 2002
Patent Office Postcard Stamp	November 22, 2002

Pursuant to 37 CFR 1.8, "*Correspondence will be considered as being timely filed if: (i) The correspondence is mailed or transmitted prior to expiration of the set period of time by being: (A) Addressed as set out in § 1.1(a) and deposited with the U.S. Postal Service with sufficient postage as first class mail; ...*"

The enclosed response, dated November 15, 2002 (Exhibit B) shows the address as it is set out in 37 CFR 1.1, Assistant Commissioner for Patents, Washington, DC 20231. The Certificate of Mailing under 1.8, signed by the Attorney for the Applicant, states that the response was mailed on November 15, 2002, which is prior to the expiration of the set period of time. Additionally, the post card receipt (Exhibit C) was stamped received by the USPTO on November 22, 2002, which is also prior to the

expiration of the set period of time. Based on the controlling dates, the holding of abandonment is erroneous.

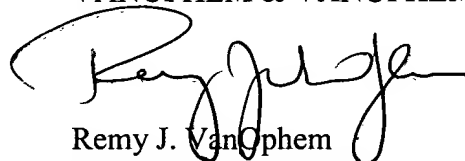
Moreover, the Attorney for the Applicant has been a respected member of the Patent Bar for thirty years and questions the absence of the time honored tradition and customary practice of a courtesy telephone call to the Applicant before the Notice of Abandonment is mailed.

It is therefore respectfully requested that this Petition to Withdraw a Holding of Abandonment be granted, and, as a result, that the above-identified application be revived and returned to the Examination Branch for further prosecution.

The Commissioner is hereby authorized to charge any deficiency in fee associated with this petition to the undersigned's Deposit Account No. 22-0212. If the Commissioner has any questions with respect to this matter, or any matter now of record, Applicant's attorney may be reached at 248-362-1210.

Respectfully submitted,

VANOPHEM & VANOPHEM, P.C.



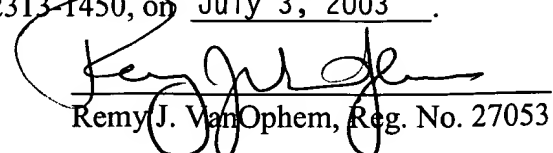
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/ajs

Certificate under 37 CFR §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: M S DAC, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on July 3, 2003.

Date: July 3, 2003



Remy J. VanOphem, Reg. No. 27053